



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION I

J. F. KENNEDY FEDERAL BUILDING, BOSTON, MASSACHUSETTS 02203

October 19, 1984



SDMS DocID 000230197

Paul B. Galvani
Ropes & Gray
225 Franklin Street
Boston, MA 02110

New Boston
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Dear Mr. Galvani:

In response to your letters of October 10 and 11, EPA has taken the following steps:

1. Arranged for all of the documents requested which are presently in the EPA Region I Library to be identified and set aside immediately for your examination. The EPA Region I Library is on the ground floor of the John F. Kennedy Federal Building in Government Center.

Copying of these documents may be arranged pursuant to the requirements of 40 C.F.R. §2.210, which provides for reproduction at a rate of twenty cents (\$0.20) per page. No charge shall be made for examination of the records at the EPA Library, which may begin immediately. However, under §2.120(c), requests for copying which would cost more than \$25 must be estimated and paid in advance. The ordinary procedure of this office in cases of large requests is to recommend that the documents be examined here in advance in order to eliminate unnecessary copying. As you know, your office has made use of this process in the past on behalf of Aerovox.

You may also, if you choose, arrange to take the Library's documents out overnight and copy them on your own. However, others may also wish to review these documents, so we do not want to release them for extended periods. All the documents will be available to all defendants and members of the public.

The documents presently in the library include the following:

<u>Library Numbers</u>	<u>Title</u>
01A 000 1943	Souder, et. al., June 1978. <u>Dredged Material Transport Systems For Inland Disposal and/or Productive Use Concepts.</u> Technical Report D-78-28. WES, Vicksburg.

01A 000 3659	Malcom Pirnie, September 1982. <u>Acushnet River Estuary PCB Study</u> . Commonwealth of Massachusetts.
01A 000 3969	Herbich and Shashikant, January 1983. <u>Literature Review and Technical Evaluation of Sediment</u> .
PB83 133 371	Farrington, et. al., 1982. <u>Hydrocarbons, PCB, and DDE in Mussels and Oysters from U.S. Coast</u> . Woods Hole WHOI-32-42.
01A 000 3745 (at NERL)	Nixon, S.W. 1982. The ecology of New England high salt marshes: A community profile. FWS/CBS/81/55.
1A 000 3889	Headquarters, Department of the Army, 1983. <u>Dredging and Dredged Material Disposal</u> . Abstract Paper 29PP, WES.
01A 000 4019	Air monitoring report by GSA Corporation on sampling in the New Bedford area on August 31, 1982 - September 9, 1982. New Bedford Environmental Investigation - Ambient monitoring program.

2. I have requested that all of the other documents identified in the first nine requests of your October 10 letter be transmitted to the EPA Region I Library to be made available according to the above procedure. Although some of the documents will be placed in the library as soon as they are copied here in Boston, others are being mailed, so we cannot be sure exactly when they will be available.

3. Documents relating to the list of industries identified at the end of your October 10 letter are available from the Region I Permits Library, on the 21st floor of the JFK Building, which presently contains both NPDES and RCRA permits. Aside from these files, I am not aware of documents relevant to those listed industries, with the exception of some material in my own files which is exempt from disclosure under the attorney-client and work product privileges. I have alerted Ronnie Harrington, the director of the Permits Library, that you may wish to examine and copy these files. Again, if you wish to request that EPA make copies, please identify the specific documents, the number of pages, and provide advance payment.

4. The "EPA Photographic Study" of Aerovox, in request number 9 of your letter, is actually entitled "Historical Assessment of Aerovox-PCB Related Facility, New Bedford, Massachusetts." No comparable document exists for New Bedford Harbor as a whole, except for the "Land Use and Point Source Inventory." These are not easily reproducible documents, so we are making originals of the maps available at the Library.

5. Some of the documents being made available, including the photographic studies discussed above, were prepared in anticipation of litigation or may otherwise be privileged or exempt from disclosure. In disclosing them now, neither EPA nor the Federal government waives any privilege or exemption in regard to any other document.

6. The information covered by your request number 10 is not presently available. EPA does not disclose information on sampling and analyses until the process is complete, which includes completion of EPA's Quality Assurance/ Quality Control procedures.

7. In regard to your letter of October 11, "Interim Report Number 1" and Batelle's scope of work for the Sediment Transport Study are being copied and transmitted to the EPA Library, to be handled as discussed above. We intend to provide any other publicly available information relating to these studies in the same manner.

We deny your requests for non-public drafts from the EPA and the Coast Guard and for correspondence and memoranda referring to the draft RI/FS. Such material is most likely exempt from disclosure under the Freedom of Information Act and under the Federal Rules of Civil Procedure. None of this material is available to the public for purpose of comment on the RI/FS. EPA's decisions will be based on publicly available documents. It would be unnecessary and unfair to permit Aerovox to base its comments on both public documents and on EPA's internal deliberative and work product material.

If you have any specific requests or comments, please feel free to get in touch with me.

Yours sincerely,



Charles C. Bering

cc: William J. Cheeseman
Jeffrey C. Bates
Daniel J. Gleason

David A. McLaughlin
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